

JUN 16 2004

OFFICIAL**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of
Spencer B. FARR *et al.*

Atty. Docket No.: 2874-002

Appln. No.: 09/911,904

Group Art Unit: 1634

Filed: July 23, 2001
Conf. No.: 4189

Examiner: Jeanine Goldberg

Title: CANINE TOXICITY GENES

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Submitted via facsimile
to: 703-872-9306

APPLICANT'S INTERVIEW SUMMARY

Dear Sir:

This letter is responsive to the Examiner's Interview Summary mailed June 2, 2004 wherein the Applicant was given a one (1) month period to file a statement of the substance of the interview. Applicant's statement of the substance of the interview is timely filed.

A telephonic interview was conducted on May 11, 2004 between the undersigned and Examiner Goldberg to discuss pending claims 45-47 of the above referenced application. Applicant wishes to thank the Examiner for her thoughtful comments.

An agreement with respect to the claims was not reached. Subjects discussed during the telephonic interview were:

- 1) whether a post final amendment to claims 45-47 would place the claims in condition for allowance,

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- 2) whether the Examiner was aware that the genes on the array were all toxicologically responsive and toxicologically relevant, as demonstrated by the applicant in figure 2 and tables 10, and 11, and
- 3) whether the Examiner would be willing to examine at least one more sequence where the sequence is novel and non-obvious, disclosed in the technical disclosure and priority documents, and having never before been described in the literature.

Regarding points 1 and 2, strategies for amending claims 45-47 which overcome the obviousness rejection were discussed. The Examiner stated that the Applicant should show why the combination of gene sequences on the array are non-obvious with particular annotation to the specification for evidence of non-obviousness and for the toxicologically relevant status of the sequences. The Examiner acknowledged that such information would be persuasive in overcoming the obviousness rejection.

During the interview, Applicant pointed the Examiner to sections within the specification showing support for the combination as claimed and supporting the non-obviousness of the combination. Particular attention was given to Tables 10 and 11 regarding the identification of the toxicologically relevant genes from the more than 30,000 gene possibilities. Applicant in their Request for Continued Examination (RCE) filed May 26, 2004 discuss the same with annotation to specific sections within the specification, and reference to Tables and Figures that support a non-obvious finding for the toxicologically relevant genes of claim 47.


Regarding point 3, the Examiner agreed to examine one new sequence if the Applicant clearly identified which sequence within the combination was novel and provide detailed annotation to the specification to which Examiner could consult. The

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Examiner suggested that if the sequences identified as novel by the Applicant were found to be novel by her, then any combination having the sequence as a member would be allowable pursuant to MPEP §803.04. In addition, the Examiner agreed to consider arguments for non-obviousness for claims 45-47 if Applicant should file an RCE. Applicant has filed an RCE with amendments, arguments and new claims reflective of the suggestions and comments made by the Examiner.

Respectfully submitted,
ROBERTS ABOKHAIR & MARDULA


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